

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Georgia Rochon	Team: Squad #2	CCRB Case #: 201900465	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 01/06/2019 10:08 PM	Location of Incident: § 87(2)(b)	Precinct: 49	18 Mo. SOL 7/6/2020	EO SOL 2/20/2021	
Date/Time CV Reported Mon, 01/07/2019 9:32 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/16/2019 11:01 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Adam Tomaszewski	13222	935855	049 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Roderick Martin	27346	950828	049 PCT
2. POM Jeffry Reyes	20839	959924	049 PCT
3. POM Jason Carpano	16911	960329	049 PCT
4. POM David Mejia	17053	960928	049 PCT
5. LT Ramon Polanco	00000	947940	049 PCT
6. POF Taina Vargasbakay	29800	935826	049 PCT
7. POM Collin Burns	12155	961659	049 PCT
8. POF Gabriela Contreras	23724	963928	049 PCT
9. POM Cristian Diaz	14078	961737	049 PCT
10. POM Brian Wallace	26843	965609	049 PCT
11. POM Michael Gomez	07757	963549	049 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)
B. POM Adam Tomaszewski	Abuse: Police Officer Adam Tomaszewski threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(b)
C. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

On January 7, 2019, § 87(2)(b) filed this complaint with the Internal Affairs Bureau. On January 16, 2019, the CCRB received the complaint via IAB Log 2019-0109.

At approximately 10:08 p.m. on January 6, 2019, § 87(2)(b) called 911 regarding a dispute with his housemate, § 87(2)(b). Officers from the 49th Precinct responded to § 87(2)(b) in the Bronx. Upon arriving at the scene, an unidentified officer allegedly told § 87(2)(b) to “Shut the fuck up and stand right there” (**Allegation A—Discourtesy—Word—§ 87(2)(g)**). Police Officer Adam Tomaszewski of the 49th Precinct told § 87(2)(b) to enter in his room, and asked § 87(2)(b) “Are you going to go in your room or are we going to EDP you?” (**Allegation B—Abuse of Authority—Threat Regarding Removal to Hospital—§ 87(2)(g)**). § 87(2)(b) entered his room and was not removed to the hospital. An unidentified officer allegedly told § 87(2)(b) that if officers had to return, he would be arrested (**Allegation C—Abuse of Authority—Threat of Arrest—Alleged Victim Uncooperative**). Neither § 87(2)(b) nor § 87(2)(b) were arrested on January 6, 2019.

Body-worn camera (BWC) footage from Police Officer Gabriela Contreras, Police Officer Tomaszewski, Police Officer Collin Burns, Police Officer Taina Vargasbakay, Police Officer Jeffry Reyes, Police Officer Roderick Martin, Police Officer David Mejia, Police Officer Jason Carpano and Police Officer Michael Gomez, all of the 49th Precinct, was obtained in the course of the investigation. Police Officer Contreras’ BWC footage is attached to IA #84 (Board Review 01) and it is summarized in IA #95 (Board Review 02). Police Officer Tomaszewski’s BWC footage is attached to IA #85 (Board Review 03) and it is summarized in IA #96 (Board Review 04). Police Officer Burns’ BWC footage is attached to IA #87 (Board Review 05) and it is summarized in IA #98 (Board Review 06). Police Officer Vargasbakay’s BWC is attached to IA #88 (Board Review 07) and it is summarized in IA #99 (Board Review 08). Police Officer Reyes’ BWC footage is attached to IA #89 (Board Review 09) and IA #92 (Board Review 10) and it is summarized in IA #100 (Board Review 11) and IA #103 (Board Review 12). Police Officer Martin’s BWC is attached to IA #90 (Board Review 13) and IA #91 (Board Review 14) and it is summarized in IA #101 (Board Review 15) and IA #102 (Board Review 16). Police Officer Mejia’s BWC is attached to IA #86 (Board Review 17) and it is summarized in IA #97 (Board Review 18). Police Officer Carpano’s BWC is attached to IA #125 (Board Review 30) and it is summarized in IA #127 (Board Review 31). Police Officer Gomez’s BWC is attached to IA #124 (Board Review 32) and it is summarized in IA #128 (Board Review 33). A clip of the relevant portion of Police Officer Tomaszewski’s BWC is attached to IA #118 (Board Review 23).

Findings and Recommendations

Allegation (A) – Discourtesy: An officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) provided telephone statements on January 22, 2019 (Board Review 24) and January 23, 2019 (Board Review 25) and was interviewed at the CCRB on January 25, 2019. He participated in a photo-viewing interview on February 20, 2019 (Board Review 20). § 87(2)(b) provided a telephone statement on February 20, 2019 (Board Review 19). Police Officer Diaz was interviewed on February 27, 2019. Police Officer Carpano was interviewed on March 8,

2019. Police Officer Brian Wallace of the 49th Precinct was interviewed on March 20, 2019. Police Officer Tomaszewski was interviewed on March 22, 2019. Lieutenant Ramon Polanco of the 49th Precinct was interviewed on July 1, 2019.

§ 87(2)(b) stated that he called 911 and reported that § 87(2)(b) was banging on his bedroom door. § 87(2)(b) waited outside for officers to arrive. When officers arrived, § 87(2)(b) attempted to explain what had happened. An officer, who § 87(2)(b) described as a 5'7" tall Hispanic male with a stocky build who appeared to be in his mid-20s or mid-30s, told § 87(2)(b) to "Shut the fuck up and stand right there."

The officers entered § 87(2)(b) while § 87(2)(b) remained outside. When they returned, an officer told § 87(2)(b) that § 87(2)(b) was communicating calmly with the officers and asked § 87(2)(b) if he was intoxicated. § 87(2)(b) then entered his bedroom and shut the door.

Through the Resource Recap Log and EVENTS (Board Review 21) the investigation identified Police Officer Carpano, Police Officer Martin, Police Officer Reyes, Police Officer Burns, Police Officer Tomaszewski, Police Officer Vargasbakay, Police Officer Wallace, Lieutenant Ramon Polanco, Police Officer Mejia, Police Officer Contreras, Police Officer Diaz and Police Officer Michael Gomez as having responded to § 87(2)(b) on January 6, 2019. § 87(2)(b) was shown photographs of these officers (Board Review 20). He did not definitively identify any of these officers as the subject of the discourtesy allegation.

The BWC footage provided shows that Police Officer Tomaszewski and Police Officer Gomez were the first officers to arrive at the location, immediately followed by Police Officer Contreras and Police Officer Burns. Police Officer Tomaszewski's body-worn camera is activated at 10:16:03, while he is standing outside § 87(2)(b) but the audio does not begin until he enters the residence. The first recorded audio begins at 10:16:26, on Police Officer Contreras' body-worn camera, which shows her arrival to the location. After Police Officer Contreras' arrival, the entire extent of § 87(2)(b)'s interaction with officers is captured on BWC footage. The available footage largely matched § 87(2)(b)'s description of events, and did not show any officer telling § 87(2)(b) to "Shut the fuck up and stand right there," or saying the word "fuck." However, given the fact that, at the time the BWC audio begins, officers are already speaking with § 87(2)(b) it cannot be ruled out that the alleged discourtesy occurred prior to the beginning of the BWC audio.

Police Officer Carpano and Police Officer Diaz were determined to be the only officers listed as responding to the scene who matched § 87(2)(b)'s description of the gender, height and race of the subject officer. Police Officer Diaz did not recall the incident, and his partner on January 6, 2019, Police Officer Wallace, did not believe that he or Police Officer Diaz exited their police vehicle or spoke to any civilians upon arriving at § 87(2)(b). Police Officer Carpano stated that he did not speak to either § 87(2)(b) or § 87(2)(b) during the incident, and that he did not tell § 87(2)(b) to "Shut the fuck up and stand right there." Police Officer Tomaszewski did hear any officer say, "Shut the fuck up and stand right there" to § 87(2)(b) and did not believe that he did so himself. Lieutenant Polanco did not hear any officer say, "Shut the fuck up and stand right there" to § 87(2)(b) and did not say this himself.

Given that § 87(2)(b) did not identify any of the officers present at the scene as the subject officer of the discourtesy allegation, that the allegation is not captured on BWC, and that none of the officers interviewed recalled any officer making the alleged statement, the investigation was unable to determine the subject officer of the allegation. § 87(2)(g)

Allegation (B) – Abuse of Authority: Police Officer Adam Tomaszewski threatened to remove § 87(2)(b) to the hospital.

As per EVENT # § 87(2)(b) (Board Review 26), § 87(2)(b) called 911 at 10:08 p.m. on January 6, 2019 and stated that § 87(2)(b) was making threats and acting hostile. The call was designated by Central Dispatch as an EDP call, although it is not clear whether § 87(2)(b) or § 87(2)(b) was believed to be the EDP. Approximately five minutes later, § 87(2)(b) called 911 and stated that someone was making threats against him.

Footage from Police Officer Tomaszewski's body-worn camera shows him arriving at § 87(2)(b) and entering the kitchen, where § 87(2)(b) stands with another officer. Police Officer Tomaszewski remains briefly in the kitchen and observes § 87(2)(b) speaking to the other officer. He then exits § 87(2)(b) and begins speaking to § 87(2)(b) who is standing on the sidewalk outside (Board Review 3).

As shown in a clip of Police Officer Tomaszewski's body-worn camera footage (Board Review 23), Police Officer Tomaszewski tells § 87(2)(b) that § 87(2)(b) is very calm, unlike § 87(2)(b). He asks § 87(2)(b) if he has been drinking, and § 87(2)(b) responds that he has been in his room all day, and explains that he only left his room because § 87(2)(b) was knocking on the door of his room and screaming. Police Officer Tomaszewski tells § 87(2)(b) that "The only person screaming is you." § 87(2)(b) says that he is sorry that he called, and enters the house. While attempting to unlock his bedroom door, § 87(2)(b) loudly expresses anger about the situation and describes § 87(2)(b) as a "drunk ass motherfucker." At this point, Police Officer Tomaszewski asks § 87(2)(b) "Are you going to go in your room or are we going to EDP you? The choice is yours bro." § 87(2)(b) then enters his room and shuts the door.

Police Officer Tomaszewski's recollection of the incident largely matched what was depicted in his body-worn camera and in Event # § 87(2)(b). Police Officer Tomaszewski recalled that the initial radio run came over as an "EDP job." Upon arriving at § 87(2)(b) Police Officer Tomaszewski asked § 87(2)(b) who was screaming outside, if he was injured, and § 87(2)(b) responded that he was not. Police Officer Tomaszewski then entered the residence, and was informed by § 87(2)(b) that no physical altercation had occurred. He exited the building and told § 87(2)(b) who was still yelling, that § 87(2)(b) was calm. He then asked § 87(2)(b) to enter his room, and § 87(2)(b) complied.

Initially, Police Officer Tomaszewski did not recall telling § 87(2)(b) that he would be taken to the hospital if he did not enter his room. After reviewing his body-worn camera footage, Police Officer Tomaszewski acknowledged that he made the statement, and stated that if § 87(2)(b)

Lieutenant Polanco did not recall discussing removing any civilian to the hospital with any officer on scene, and did not recall being informed by any officer that a civilian was acting in an emotionally disturbed manner.

§ 87(2)(b), § 87(2)(g)

In his telephone statement, § 87(2)(b) alleged that an officer, addressing § 87(2)(b) and § 87(2)(b) said that they would both be arrested if officers had to return to § 87(2)(b) (Board Review 19). § 87(2)(b) made no such allegation against any officer, regarding himself or § 87(2)(b) declined to schedule a CCRB interview appointment or participate further because he was not upset about the officer's behavior.

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- Police Officer Tomaszewski has been a member of service for 14 years and has been a subject in four additional CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
[REDACTED]

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- On March 23, 2019, a request for any Notice of Claim filed regarding this incident was submitted to the New York City Office of the Comptroller. Any response will be added to the case file upon receipt.
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

